INDEX TO PETITION.

	Page
Reasons for Granting Rehearing and Issuing the Writ	1
Conclusion	4
Certificate of Counsel	5

TABLE OF CITATIONS.

	Page
Boeing Airplane Company v. Aeronautical Industrial Lodge No. 751, 188 F. 2d 356	4
Boeing Airplane Company v. National Labor Relations Board, 174 F. 2d 988	4
Brown v. Western R. Co., 338 U. S. 294	4
John F. Dice v. The Akron, Canton & Youngstown Railroad Co., — U. S. —, 20 Law Week 4120	2, 3, 4
Federal Employers Liability Act	2, 4
International Union of Operating Engineers, Local No. 181 v. Dahlem Construction Co., 20 C.C.H. Labor Cases § 66,693	4
Lillie v. Thompson, 332 U. S. 459	4
Rules of U. S. Supreme Court, Rule 33	5
Taft-Hartley Act	2, 3, 4

IN THE

Supreme Court of the United States.

October Term, 1951.

No. 480.

PATERSON PARCHMENT PAPER COMPANY, A CORPORATION,

Petitioner,

v.

INTERNATIONAL BROTHERHOOD OF PAPER MAKERS, AND INTERNATIONAL BROTHERHOOD OF PAPER MAKERS, BRISTOL LOCAL No. 500, UNINCORPORATED ASSOCIATIONS,

Respondents.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI.

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Paterson Parchment Paper Company prays this Court grant rehearing of its order of February 4, 1952, denying the petition for writ of certiorari, and that a writ of certiorari issue to review the judgment of the Court of Appeals for the Third Circuit in the above entitled case, as prayed for in the petition filed December 17, 1951.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT.

On February 4, 1952, the same day certiorari was denied in this case, the Court handed down a written opinion

which, on two vital points, is itself inconsistent with the result permitted to stand in the instant case.

In No. 374, *John F. Dice v. The Akron, Canton & Youngstown Railroad Co.*, U. S. , 20 Law Week 4120, all nine members of this Court agreed that state law cannot govern either rights or the validity of releases of rights granted under the Federal Employers Liability Act.

Mr. Justice Black, for the Court, said:

> "Manifestly the federal rights affording relief to injured railroad employees under a federally declared standard could be defeated if states were permitted to have the final say as to what defenses could and could not be properly interposed to suits under the Act . . ."

Similarly, Mr. Justice Frankfurter, for the concurring and dissenting Justices, said:

> "The judgment of the Ohio Supreme Court must be reversed for it applied the State rule as to validity of releases . . ."

Nothing could be clearer. The *Dice* case clearly holds that, where a federal statute confers a right, both state and federal courts must determine the existence of the right, and defenses to it, according to federal law.

But in the instant case, wherein petitioner asserted an important federal right granted by a federal statute, the Court of Appeals openly refused to apply federal law (R-293) and denied the right solely on the basis of state law.

True, the instant case involves an employer's right under the Taft-Hartley Act, not an employee's right under the Federal Employers Liability Act. But it is inconceivable that employers' federal rights are to be treated differently than employees' federal rights.

This Court is under a duty to clarify the inconsistency between the *Dice* case and the decision here denied review on the same day.

Moreover, if employers' rights under Section 301 of the Taft-Hartley Act are still to be vulnerable under contrary state laws which Section 301 was deliberately enacted to supersede, the Court is under a duty to forthrightly so state so that the Congress may know that this important legislation has not had the intended effect.

If it be said that in this case there is only a question of breach of contract, the short answer is that that is also all that Section 301 involves. Further, it has not yet been suggested that contract causes of action are to be given less consideration or to be judged by less favorable legal rules than tort causes of action.

Indeed, the *Dice* case also stands for the proposition that there must be nation-wide uniformity in applying *any* statute granting federal rights in the employer-employee field.

Mr. Justice Black, for the Court, said:

> "Moreover, only if federal law controls can the federal Act be given that uniform application throughout the country essential to effectuate its purposes . . ."

Similarly, Mr. Justice Frankfurter, for the concurring and dissenting Justices, said:

> "In order to prevent diminution of railroad workers' nationally-uniform right to recover, the standard for the validity of a release of contested liability must be federal . . ."

In this respect, the *Dice* decision is also inconsistent with the result below which is left undisturbed. There can be no uniformity when the rule applied and the result obtained in each case depend upon which Court of Appeals

has jurisdiction. Other Courts of Appeals [1] have followed the rule unanimously reaffirmed by this Court in the *Dice* case. The Third Circuit, on the contrary, held that the question whether this contract between employer and employees was or was not in existence, and consequently whether a cause of action existed under Section 301, was governed solely by the law of Pennsylvania.

This Court cannot consistently first apply the "uniform" federal law rule to cases under one federal statute and then permit Circuit-to-Circuit variation in applying it to cases under another federal statute governing another phase of the same field of law.

In this respect also, if it be said that this case involves only a particular contractual situation, it is equally clear that an infinitely greater variety of particular tort situations has arisen under the Federal Employers Liability Act, and this Court has not been slow to review them, one by one, to preserve federal standards and the uniformity rule.[2]

CONCLUSION.

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, a writ of certiorari issue to the Court of Appeals for the Third Circuit.

Respectfully submitted,

GEORGE E. BEECHWOOD,
JAMES M. MARSH,
Counsel for Petitioner.

---

1. Sixth Circuit: *International Union of Operating Engineers, Local No. 181 v. Dahlem Construction Co.*, 20 C.C.H. Labor Cases § 66,693, reprinted at Page 17 of Petitioner's Memorandum and Reply Brief filed in the instant case.

Ninth Circuit: *Boeing Airplane Company v. Aeronautical Industrial Lodge No. 751*, 188 F. 2d 356.

District of Columbia Circuit: *Boeing Airplane Company v. National Labor Relations Board*, 174 F. 2d 988.

2. See, for example, *Brown v. Western R. Co.*, 338 U. S. 294; *Lillie v. Thompson*, 332 U. S. 459, and cases there cited.

Certificate of Counsel.

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 33 of the rules of this Court.

GEORGE E. BEECHWOOD,
Counsel for Petitioner.